

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.424 OF 2023

(Nihal Ahemad Abdul Hamid and anr. Vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.S. Sheikh, Advocate for the applicants.
Shri A.M. Kadukar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- AUGUST 08, 2023.

Heard.

2. Present application is for grant of anticipatory bail in connection with Crime No.113/2023 registered at police station Pophali, Taluka Umarkhed, District Yavatmal for the offence punishable under Sections 143, 147, 332, 333, 294, 323, 186, 506 and 353 of the Indian Penal Code.

3. The applicant are apprehending arrest at the hands of police as crime is registered against them on the basis of report lodged by one Dhammapal Madhavrao Adhagale on an allegation that there was an encroachment on the land of Gram Panchayat, Mulawa which is situated in front of Gram Panchayat. The co-accused Sheikh Gani Sheikh Miyya, Golu Hamid Kureshi, Rajiv Kureshi, Abed Mustafa and Nadim Kureshi have constructed the tin shed illegally. Though notices were issued to them to remove the encroachment, they have not removed the encroachment. But on 3rd May, 2023

they have assaulted the Sarpanch and other Gram Panchayat Office Bearers by means of sticks. On the basis of said report, police have registered the crime against the present applicants.

4. As per the contention of the present applicants, they are implicated falsely in the alleged offence. The injuries sustained by the injured are of simple in nature. Their physical custody is not required and hence they be protected by granting anticipatory bail.

5. Said application is strongly opposed by the State on the ground that the applicants have assaulted the injured who were discharging their official duty. Present applicants are the encroachers who made an encroachment on the Gram Panchayat land. Their physical custody is required to recover the sticks and prays for rejection of the application.

6. Heard learned Counsel for the applicants and learned Additional Public Prosecutor for the State.

7. Perused the investigation papers. It reveals that while removing the encroachment, the alleged incident has taken place. The role attributed to the present applicants is that they were holding sticks in their hand and assaulted the Sarpanch when the encroachment was removed. The medical certificate is on record which shows that the injured have sustained the simple injury. As far as their custodial interrogation is required for the purpose of

recovery of sticks is concerned, some conditions can be imposed on the present applicants. In view of that the application deserves to be allowed. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) In the event of arrest, the applicants – 1) Nihal Ahemad Abdul Hamid and 2) Abed Ahemad Abdul Hamid in connection with Crime No.113/2023 registered at police station Pophali, Taluka Umarkhed, District Yavatmal for the offence punishable under Sections 143, 147, 332, 333, 294, 323, 186, 506 and 353 of the Indian Penal Code, be released on anticipatory bail on execution of P.R. bond in the sum of Rs.25,000/- each with one surety each in the like amount.

(iii) The applicants shall attend the concerned police station on 14th August, 2023 and shall produce the sticks which are the incriminating articles and the said period will be considered as their custody for the purpose of Section 27 of the Indian Evidence Act, 1872.

(iv) The applicants shall not enter in the village Mulawa, Taluka Umarkhed, District Yavatmal till filing of the charge-sheet.

(v) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(vi) The applicants shall furnish their Cell-phone number and address with the address proof before the Investigating Officer.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*